

BEFORE THE U.S. DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA

True Division for Trial: Columbia

No. 8:22-cv-608-CMC

Richard Alexander Murdaugh, Plaintiff v. Washava Moye, officially, Defendant

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2023 MAY -5 PM 4:20**Marie Assa'ad-Faltas, MD, MPH, *pro se* Proposed Substitute Plaintiff.**

Dr. Assa'ad-Faltas' Timely NOTICE OF APPEAL from this Court's 6 April 2023 ORDER (ECF 95) and from all relevant orders antecedent thereto and subsumed therein COMBINED WITH MOTIONS: (1) to proceed *ifp* on appeal; (2) for appointment of counsel for appeal; and (3) for injunction pending appeal and for an evidentiary hearing thereon in the Court's discretion because the Issue Keeps Gaining Importance but Remains Capable of Repetition Yet Evading Review.

Marie Assa'ad-Faltas, MD, MPH *pro se* hereby timely appeals to the U.S. Court of Appeals for the Fourth Circuit from this Court's 6 April 2023 ORDER (ECF 95) denying reconsideration of all the orders on the motions cited in ECF 95. This appeal subsumes appeals from all ORDERS cited in ECF 95, mainly denial of intervention and/or substitution as plaintiff by Dr. Assa'ad-Faltas, denial of ACLU-SC's motion to file *amicus*, and denial of injunction forbidding Alvin S. Glenn Detention Center ("ASGDC") from releasing recordings of inmates' call to strangers-to-the-inmates under FOIA. The tragedy of Dr. Assa'ad-Faltas being kept jobless since 1994 while fending off unending but illegal and, thank God, failed scams to deport/convict her of false criminal charges is documented in this District. She therefore seeks leave to appeal *in forma pauperis* and to have appointed counsel for this appeal.

ACLU-SC volunteered as *amicus* due to their expertise in incarcerations and may be suitable as Dr. Assa'ad-Faltas' appeal counsel. Another suggestion is Harvard Lecturer-on-Law and Rights-Behind-Bars Executive Director Samuel Weiss, <https://hls.harvard.edu/faculty/samuel-weiss/> public contact: Austin 206 (617) 384-7385, sweiss@law.harvard.edu, assistant: Arlenie Oglesby (617) 384-0448, email: asalamat@law.harvard.edu. These suggestions follow U.S. District Judge Lewis' (DSC) *sua sponte* appointment of Ms. Lindsay Joyner as Dr. Assa'ad-Faltas' (stand-by) counsel in 3:18-cv-578 (DSC).

Ms. Joyner holds Dr. Assa'ad-Faltas' respect and affection; but Ms. Joyner gave more than imaginable in 3:18-cv-578 (DSC) and, even if willing to give more in this case, would have a conflict as she and five other members of her law firm are now counsel for Richland County ("RC") in 8:22-cv-2541 (DSC) and one of those five members is the conservator of the original plaintiff's assets in state court cases. Dr. Assa'ad-Faltas remains realistic about the fate of *pro se* versus counseled cases in the 4th Circuit.

Dr. Assa'ad-Faltas seeks an injunction pending appeal as, in addition to risk of her own recorded calls from ASGDC being released, she has an interest in a decent moral environment. What was done with the released call recordings of the original plaintiff from ASGDC and from other detention facilities, with released mail incoming to him at SC's Department of Corrections, and with released call recordings of other presumed-innocent detainees at ASGDC, mutilates decency and unleashed morbid voyeurism and "entitlement" to defame all whose jobs or faiths involve ministering to the incarcerated.

The originator of the FOIA requests which caused this lawsuit by the original plaintiff went from using call recordings to deny the original plaintiff a trial free from prejudicial publicity, to using ALL detainees' call recordings to deny their Eighth Amendment right to reasonable bail, to a war against Eighth-Amendment-respecting jurists (specially if black) to the point of claiming said jurist(s) are under criminal investigation. Dr. Assa'ad-Faltas has no basis for gratitude to now-retired SC Circuit-Judge Manning and is aware of (and has sued under) case law for jurists to be sued and even prosecuted for non-judicial acts; but the blogger who obtained the original plaintiff's recorded calls from ASGDC now pushes for Retired Judge Manning to be arrested and for SC's General Assembly to replace the egalitarianism of civilized parliaments with a strange division into first-class legislators allowed to sit on all committees and second-class legislators (the lawyer legislators) barred from sitting on the Judicial

Merit Selection Committee ("JMSC") *solely because* many SC lawyer legislators practice criminal defense and in the course of said practice advocate for their clients' constitutional rights. In reality, SC state judges have been intimidated into unduly harsh treatment of FITSNews' defendant *du jour*. This insanity causes irreparable harm to people's reputations and puts their personal safety at risk. And an evidentiary hearing on the *realistic* balance of harm to the public in general and to ASGDC detainees in particular from the wanton release and abuse of recorded inmate phone calls is necessary for any appellate opinion to be grounded in *objective* facts rather than ivory-tower speculation.

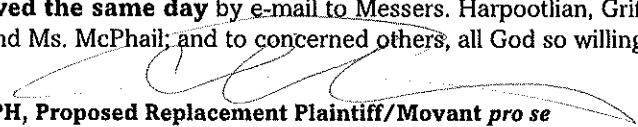
Without false humility or sycophancy, Dr. Assa'ad-Faltas believes she has figuratively cracked the code of explaining why no political entity other than the federal government or one of the states or tribal nations may even own or operate a detention facility, a jail, or a prison. Senior Article III Judge Currie (DSC) may be one of the very few, if not the only, jurist left on the SC state or federal bench willing to listen to Dr. Assa'ad-Faltas with an open mind uncolored by others' false portrayals.

Dr. Assa'ad-Faltas' submission is no more revolutionary than the American Revolution itself was in essence against Europe's model of sovereignty: from-up-down "divine" rights of kings which may be *further* handed down in smaller pieces to fiefdoms and nobility. In replacing it with the republican form of government, based on the social contract, the Constitution of the United States of America invented a from-down-up sovereignty where the majority of the people lift **only two of the split atom of sovereignty: the federal government and the states (or tribal nations)**. No entity elected by less than the majority of the *entire* population of the state or federal sovereign may exercise sovereign powers over the people, meaning powers over the persons themselves which is epitomized in the ultimate power to deprive a natural person of life, limb or liberty. All other powers are corporate powers which may be exercised by non-sovereigns. Since all RC officials are elected only by a majority of RC inhabitants, not all SC's inhabitants, RC cannot exercise any sovereign powers of incarcerating natural persons even if delegated that authority from the state sovereign. In fact, the SC state sovereign never *specifically* delegated that power to RC. And in law, the SC state sovereign could not delegate sovereignty *down*. That is the European from-up-down against which the Colonies revolted. The people could, of course, delegate sovereignty sideways in compacts and treaties or up as in states or tribal nations ceding land and authority to the federal government.

If this submission is accepted as suitably modified by an open-minded jurist, it will revolutionize much and solve more; but more immediately, it would require RC ceding immediate ownership and control of ASGDC to the SC state government and it being operated under new rules, including separation of the sexes and non-release of recorded inmate calls absent pre-obtained *valid* consent.

WHEREFORE, this appeal should be duly docketed, counsel should be appointed, and an injunction pending appeal should be heard and granted at the Court's earliest convenience.

Respectfully submitted on 5 May 2023 and served the same day by e-mail to Messrs. Harpootlian, Griffin, and Barber; to Mr. Lindemann; to Mr. Chaney and Ms. McPhail; and to concerned others, all God so willing.


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